IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 10683 of 2003

Between:

Smt D.Hymavathamma

..... PETITIONER

AND

1 The Seva Co-Op Urban Bank Limited,

rep.by its Chairman and Chief Executive Officer,

Plot No.94, Street No.8, Habsiguda, Hyderabad,

2. Sri S.V.Pardha Sarathi Rao, s/o.not known, C.E.O.,

The Seva Co-Op Urban Bank, Plot No. 94,

Street No.8, Habsiguda, Hyderabad.

3. The Manager, The Seva Co-op. Urban Bank,

Plot No.94, Steet No.8, Habsiguda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents who have restored to trespass into the house of the petitioner on 28th, 29 April, 15 and 20th May of 2003 alleging that the 4th addressee namely Smt D.Latha as the petitioner and thereby exercising the respondents alleged right under the said statutory notice dated 10-4-2003 issued under Section 13 of Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, and proceeding against the property specified above and as well as the said Act as ultra virus, illegal, arbitrary, capricious against to law and fundamental rights and violative of article 14 of the Constitution of India.

Counsel for the Petitioner: MR.C.APPAIAH SARMA

Counsel for the Respondents: M/s. Venkata Raghu Ramulu

The Court made the following :

ORAL ORER: (per Hon'ble The Chief Justice).

On receipt of notice under Section 13 of Securitization & Reconstruction of Financial Assets And Enforcement of Security Interest Act, this writ petition was filed and the stay is operating.

As far as the vires of the Act is concerned, the same has been upheld by the Supreme Court in Transfer Case (Civil) No. 92-95 of 2002, dated 8th April, 2004 (MARDIA CHEMICALS LTD., v. UNION OF INDIA AND OTHERS), and in view of the said decision, the petitioner has got adequate and efficacious remedy in filing reply to the notice and in case if he is still aggrieved by the action of the bank, he can avail of the remedy of filing of appeal under the provisions of the Act.

With leave and liberty granted to the petitioner, this writ petition is dismissed. No costs.

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DEVINDER GUPTA. C.J.,

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C.V. RAMULU. J.,

Dated: 19.07.2004.

KVRK.

To

1 The Chairman & Chief Executive Officer,The Seva Co-Op Urban Bank Limited, Plot No.94, Street No.8, Habsiguda, Hyderabad,

2.The Manager, The Seva Co-Op Urban Bank, Plot No. 94,

Street No.8, Habsiguda, Hyderabad.

3. Two CD copies